

REMARKS

Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kaplan U.S. Patent No. 6, 211,484 and further in view of Froehlich et al.

The Examiner in paragraph 4 of the Official Action rejected claims 1-8 under 35 U.S.C. 112, first paragraph, arguing that there is improper support for claim language as currently set forth. In this regard, Applicants have amended the claims to state that comprising "locating an apparatus-created unique micro-discrete indicia on said gemstone; and reading said apparatus-created unique micro-discrete indicia using near-field optics." Support for this change may be found on page 5, lines 8-11 of the application. As set forth therein, the apparatus provides a micro-discrete indicia on the gemstone. Accordingly, it is respectfully submitted the objection claims 1-8 under 35 U.S.C. 112 is no longer applicable.

The Examiner has also rejected claims 1-8 under 35 U.S.C. 103(a) as being unpatentable over the combination of Kaplan in view of Froehlich et al for the reasons set forth in paragraph 6. As set forth in column 2, lines 60 to column 3, line 11 of Kaplan, the laser is used for producing the indicia on the gemstone. There is no teaching or suggestion that the reading occurs by the laser. Quite the contrary, it is apparent that the reading and authentication of the indicia as set forth in column 8, lines 1-10, is determined by the use of a jeweler's loupe. There is no teaching or suggestion in Kaplan et al of reading the indicia using a laser, or using near-field optics as taught and claimed by Applicant. See also column 8, lines 29-31 of Kaplan et al. Thus, the reading of indicia's in Kaplan et al done by typical ordinary reading as opposed to the near-field optics as taught and claimed by Applicants.

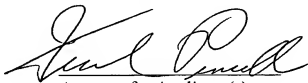
There is no teaching or suggestion in Kaplan et al that the indicia is formed by near-field optics as taught and claimed by Applicants.

With regard to Froehlich et al, this reference merely teaches near-field scanning optical microscopy (NSOM). As previously discussed in Applicant's amendment filed March 26, 2006, the Froehlich reference does not teach, expressly or inherently, reading microscopy indicia used in near-field optics.

In neither of the references cited is it taught or suggested locating an apparatus-created micro-discrete indicia on the gemstone. The prior art fails to teach or suggest a method for reading micro-discrete indicia on a gemstone comprising locating an apparatus-created unique micro-discrete indicia on the

gemstone and reading the apparatus-created unique micro-discrete indicia using the near-field optics. In view of the foregoing, Applicant respectfully submits that the claims in the present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Frank Pincelli', written in a cursive style.

Attorney for Applicant(s)

Registration No. 27,370

Frank Pincelli/jpc

Rochester, NY 14650

Telephone: 585-722-3335

Facsimile: 585-477-4646

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.